IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE FIFTEENTH DAY OF APRIL

TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE C.V.RAMULU

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WRIT PETITION NO : 25231 of 1996

Between:

K. V.S. Subrahmanyam, S/o. Late Subrahmanyam, Hindu,

residing at 49-36-20, Akkayyapalem,
Visakhapatnam, 530016.

..... PETITIONER

AND

1. The Accountant General (A &E), Andhra Pradesh,

Hyderabad 500463
2. The Chairman, Visakhapatnam Port Trust, Visakhapatnam,
3. The Superintendent Engineer, Public Works Department, (Waltair

Circle), Irrigation Circle, Visakhapatnam.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ in the nature or Mandamus or any other order or direction, by declaring that the proceedings dated 27.4.96 in LR. No. 6827/EC/2 of Respondent No. 3 and the proceedings dt4.6.96 in Ref.No. FA/pen/Misc/1041 of Respondent No. 2 in not considering the service of the petitioner with these Respondents, for the relevant periods, as a combined service for the purpose of granting pensionary benefits as unjust, contrary to law, violative of principles of natural justice and Article 14 of the Constitution of India in consequence there of direct Respondents 2 & 3 to send all the necessary pension papers of the petitioner to the Office of Respondent No. 1 forthwith and further direct Respondent No. 1 to pay the pensionary benefits, which

the petitioner is entitled to, from the date of the retirement.

Counsel for the Petitioner: MR.K.SURYANARAYANA

Counsel for the Respondent No.1: Mr.A.Rajasekhar Reddy

Counsel for the Respondent No.2: MR.P.SRI RAGHU RAM

Counsel for the Respondent No.3: G.P. for Irrigation

The Court made the following :

ORDER:

This Writ Petition is filed seeking prorata pensionary benefits by counting the past services rendered by the petitioner in the State Government (Andhra Pradesh) prior to joining Visakhapatnam Port Trust.

2. It is the case of the petitioner that originally he was selected by the A.P.P.S.C and allotted to the office of the Superintending Engineer-3rd respondent herein and joined as a typist on the forenoon of 27.11.1961. The petitioner worked with the 3rd respondent from 27.11.1961 to 10.02.1971 forenoon and thus rendered nearly ten years of service with the Government of Andhra Pradesh, Public Works Department (Irrigation Circle), Visakhapatnam. The petitioner joined with the respondent No.2 on 10.02.1971 A.N., which is an autonomous body under the Ministry of Surface Transport as typist, after resigning his job in the Public Works Department, Government of Andhra Pradesh. Eventually, the petitioner retired as a senior typist from the service of respondent No.2 on 04.10.1990 on medical grounds. The petitioner was also paid with pension for the service rendered in the Port Trust-second respondent. However, for the services rendered in the Public Works Department, Government of Andhra Pradesh, he is entitled for pro-rata pension and in this regard, he made several representations requesting the respondents 2 and 3 for payment of pensionary benefits by treating the past services rendered under respondent No.3 and the past services rendered with the respondent No.2 as continuity of service for the purpose of payment of pensionary benefits. In spite of number of requests nothing has happened. Therefore, the petitioner had taken up

the matter with the Lokayukta, Government of Andhra Pradesh, Hyderabad and Lokayukta after looking into the case held that the petitioner should take up the grievance and seek redressal in an appropriate forum. Therefore, the petitioner filed this Writ Petition.

3. A detailed counter affidavit has been filed by the respondents 2 and 3 denying the allegations made by the petitioner seeking to dismiss the Writ Petition.

4. The learned counsel for the petitioner strenuously contended that counting of past services rendered by the petitioner in the State Government i.e. under the respondent No.3 and services rendered under respondent No.2 have to be clubbed together and his pensionary benefits to be settled as such. The action of the respondents in not counting the service rendered by the petitioner in the State Government for the pro-rata pension is arbitrary, illegal and also contrary to the Governmental orders issued in G.O.Ms.No.135, dated 19.05.1987 and also various circulars issued by the Central Government from time to time.

5. The learned counsel for the 2nd respondent filed detailed counter affidavit and stated that they are not responsible for payment of any pro-rata pension by counting the services rendered by the petitioner with the State Government-3rd respondent. The respondent No.3 also filed a detailed counter affidavit enumerating all the Governmental Orders issued by the Government of India as well as Government of Andhra Pradesh. In this regard, it is stated that the petitioner at his own accord had resigned the job with the third respondent foregoing his previous service in the State Government with effect from 10.02.1971, duly forfeiting his previous service and therefore, the petitioner is not eligible for any pensionary benefits in view of the conditions stipulated in O.M.No.28/10/84-Pension Unit, dated 29.08.1984 referred to in G.O.Ms.No.135 Finance and Planning (Fin.Wing-Pen.I) Department dated 19.05.1987.

6. The only question that needs to be considered is :Whether the service of the petitioner rendered with the third respondent prior to joining the second respondent can be treated as a continuous service either for the purpose of pro-rata pension or pension to be granted by the third respondent?

7. In fact the learned counsel for the petitioner placed heavy reliance on G.O.Ms.No.135 dated 19.05.1987 issued by the State Government, Finance and

Planning Department. The said G.O. says that the Government of India in their office memorandum had called for the consent of the State Government for making reciprocal arrangements, in respect of the employees of State Government/State autonomous/State Statutory Bodies in the event of their absorption in Central Government Autonomous bodies and vice versa. Government of Andhra Pradesh have conveyed their consent through their letter, dated 18.02.1986. Government of India in their letter dated 17.06.1986 have extended the orders contained in their letter dated 7.2.1986 to the employees of State Government and Autonomous Bodies of Andhra Pradesh and requested the Government of Andhra Pradesh to issue similar orders regarding counting of service of Central Government employees in the event of their absorption in State Autonomous bodies and employees of the Central autonomous bodies in the State Government and sate autonomous bodies, as well as acceptance of pension liability etc in respect of the State Government and State Autonomous Bodies employees absorbed in the Central autonomous bodies and employees of State Autonomous Bodies absorbed in Central Government. Further O.M.No.28)10)/84-P&PW/Vol.II, dated 7th February, 1986, 17th June, 1986 of 30th October,1986 and 20th March, 1987 reads as under:

> "counting of service of the Central Government Employees in the event of their absorption in the State autonomous bodies and employees of the central autonomous bodies in the state Governments, and state autonomous bodies as well as orders regarding acceptance of pension liability etc. In respect of State Government and state autonomous bodies employees absorbed in central autonomous bodies and employees of State autonomous bodies absorbed in Central Government will be issued by the respective State Governments"

8. In the counter affidavit filed by the third respondent, it is categorically stated that the petitioner resigned on 10.02.1971 and he had foregone not only the service with the State Government, but also other benefits available thereunder. Insofar as payment of pension by the Port Trust is concerned there is no dispute. Once the petitioner resigned the job on his own, he forfeited all his rights as to the service rendered and other benefits with the Government of Andhra Pradesh and that he cannot claim any benefit for the service rendered by him with the State Government before his absorption in the Second respondent trust.

9. The crux of the case is absorption. When an employee is absorbed from one department to the other department of the State Government, from one department of the State Government to another department of the Central Government or from one autonomous body of the State Government to another autonomous body of the Central Government, such persons are entitled for pro-rata pension and not the persons like the petitioner, who resigned from the service forfeiting his service benefits with the State Government. Under these circumstances, I am of the considered opinion that this Writ Petition is nothing but speculative and imaginary one and does not deserve any consideration. The Writ Petition is devoid of merits and is liable to be dismissed.

10. Accordingly, the Writ Petition is dismissed. No costs.

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15-04-2005

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To

1. The Accountant General (A &E), Andhra Pradesh,

Hyderabad 500463
2. The Chairman, Visakhapatnam Port Trust, Visakhapatnam,
3. The Superintendent Engineer, Public Works Department, (Waltair

Circle), Irrigation Circle, Visakhapatnam.

4. 2 CCs to G.P. for Irrigation, High Court Buildings,Hyderabad (OUT)

5. 2 CD copies.